November 15, 2011

Regulatory Policy and Programs Division
Financial Crimes Enforcement Network
Department of the Treasury
P.O. Box 39
Vienna, VA 22183

Re: PRA Comments – BSA Required Electronic Filing

Dear Sir or Madam:

ICBA appreciates the opportunity to comment on the Financial Crimes Enforcement Network's (FinCEN's) proposal to require electronic filing of certain Bank Secrecy Act (BSA) reports.

FinCEN is proposing to require electronic filing of all BSA reports excluding the Report of International Transportation of Currency or Monetary Instruments (CMIR). The proposal would require all reports be electronically filed beginning no later than June 30, 2012. FinCEN believes this requirement will significantly enhance the quality of their electronic data, improve their analytic capabilities in supporting law enforcement requirements and result in significant reduction in real costs to the federal government. Furthermore, this proposal would support Treasury's paperless initiative and support efforts to make government operations more efficient.

ICBA appreciates FinCEN's initiative and commitment to reducing paperwork. ICBA agrees that a proposal such as this will significantly impact paper usage, which will have a positive environmental impact as well as potentially save the federal government a significant amount of money. A significant reduction in paperwork would reduce expenditures associated with paper processing including the physical intake and sorting of incoming reports and the electronic keying of reported information into the database. As a result, ICBA supports an initiative that fully utilizes the e-filing system.

While ICBA supports this initiative, we believe the timing of this mandate for electronic filing of most BSA reports places a disproportionate burden on small community banks. Community banks are currently faced with a number of legislative and regulatory changes in response to the nation's financial crises. The harsh examination environment, changes to the credit card and overdraft protection rules as well as the changes from the Dodd-Frank Act have impacted community banks. Community banks are already spending significant resources complying with these new laws. And while each individual requirement may not be burdensome, the cumulative impact of regulations often places a burden on community banks that is often disproportionate to the benefits of the additional requirements. It is therefore important to ensure that any additional regulatory requirements maintain a balanced approach that promotes the purposes of BSA reporting with the limited and already strained resources of community banks.

ICBA believes this proposal, in the long run, would streamline the BSA reporting process and reduce certain regulatory burdens that come with submitting paper reports. However, requiring a change to the way certain banks currently report at this time would initially inundate community banks. Regulatory and paperwork requirements already impose a disproportionate burden on community banks because they have fewer resources to dedicate to compliance. Small bank limited resources are currently being exhausted because of the additional burdens they are faced with in complying with new and revised laws and regulations. A proposal at this time that requires a change in process, not substance, would add to that burden. This proposal directly impacts community banks as the large-mega banks currently file electronically. Therefore, we suggest that if FinCEN determines that a final rule should be issued, it should provide an implementation date of June 30, 2013, which gives community banks an opportunity to manage their resources effectively and coordinate this new mandate with the myriad of new and revised regulations with which they are faced.

Furthermore, the current implementation date of less than eight months away would require community banks that do not currently file electronically to incur additional costs that were not accounted for in planning for the 2012-year budget. In less than eight months, community banks would have to assess and determine whether their in-house systems are adequate to file electronically, whether they would have to amend their programs or buy additional software. Once that is determined, they would have to update their systems, which may take significant time. Once systems are in place, banks would then have to amend their BSA reporting procedures to reflect electronic filing and finally, will have to train staff. All of this would have to be completed within eight months, which is a significant burden. Extending the implementation date would help these community banks adequately plan and budget for any changes necessary to meet the requirements of electronic filing.

ICBA also suggests that FinCEN provide an exemption for small community banks that do not have the technological capabilities to file electronically. While most community banks would not need to seek an exemption, an exemption would provide the few small institutions that would qualify the flexibility to develop systems specific to their needs without necessitating a quick upgrade to accommodate this requirement. Additionally, there are certain technological and logistical challenges to discreet electronic filing by small institutions. When a bank does not file certain forms very often, the filer must re-learn the e-filing system each time a form must be submitted. Regulatory requirements should be flexible so as not to create unnecessary burdens such as these. Providing an exemption would give a few small bank filers the flexibility that they would need to file the required BSA forms in a manner that is best suited for their operational model.

In conclusion, we support FinCEN's initiative and commend FinCEN's longstanding efforts to provide financial institutions with the capabilities of electronic filing of BSA reports. We suggest FinCEN use an implementation date that provides adequate time for community banks to implement the necessary upgrades and training for electronic filing. As previously stated, community banks are disproportionately impacted by regulatory mandates and providing additional time would enable community banks to make the necessary adjustments to comply. Furthermore, providing an exemption for those few community banks that may have difficulty with the advanced technology would not usurp FinCEN's efforts to make government operations more efficient. Additionally, it would not disproportionately burden small community banks.

Sincerely,

/s/

Lilly Thomas
Vice President and Regulatory Counsel